

HOUSE No. 162

By Mr. Walsh of Boston, petition of Martin J. Walsh and Brain P. Wallace relative to creating a rebuttable presumption of job relatedness for certain public safety personnel suffering from disabling conditions caused by exposure to infectious diseases. Public Service.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO DISABILITY OR DEATH CAUSED BY CONTAGIOUS DISEASES; PRESUMPTION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 (1) Notwithstanding the provisions of any general or special
2 law to the contrary, and for the purposes of any death, disability or
3 medical services claim including claims under Chapter 32,
4 Chapter 41 and Chapter 152 of the General Laws, any contagious
5 disease, resulting in disability or death to a full-time uniformed
6 member of a paid police department, fire department or municipal
7 emergency medical service shall, if he or she successfully passed
8 a physical examination on entry into such service or subsequent to
9 such entry, which examination failed to reveal any evidence of
10 such condition, be presumed to have been suffered in the line of
11 duty, unless it is shown by a preponderance of the evidence that
12 non-service connected risk factors or non-service connected acci-
13 dents or hazards undergone, or any combination thereof, caused
14 such incapacity. The provisions of this section shall only apply if
15 the disabling or fatal condition is a type of contagious disease
16 which may, in general, result from exposure to blood and other
17 body fluids of the sick, excluding the common cold.

18 (2) The provisions of this section shall not apply to any person
19 serving in such positions for fewer than five years at the time that
20 such condition is first discovered, or should have been discovered.
21 Any person first discovering any such condition within five years
22 of the last date on which such person actively so served shall be

23 eligible to apply for benefits hereunder, and such benefits, if
24 granted, shall be payable as of the date on which the employee
25 last received regular compensation. The provisions of this section
26 shall not apply to any person serving in such position unless such
27 person shall first establish that he has regularly responded to calls
28 for police, fire or emergency medical service during some portion
29 of the period of his service in such position.

30 (3) The provisions of this section shall also apply to any condi-
31 tion of Hepatitis A, B, or C, Tuberculosis, HIV, and any other con-
32 tagious disease which is found by regulation by the commissioner
33 of the department of public health to have a statistically signifi-
34 cant correlation with police, fire or emergency medical service.

35 (4) Nothing herein shall preclude a member from applying for
36 and receiving benefits under section seven or section nine, subject
37 to the provisions of said sections.